

**JUN 18 2003**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON**  
**U.S. COURT OF APPEALS**

JOON HO KIM,

Petitioner - Appellee

v.

JOHN ASHCROFT\*, Attorney General,

Respondent - Appellant

**No. 01-55152**

D.C. No. CV-00-01759-BTM

**MEMORANDUM\*\***

Appeal from the United States District Court  
for the Southern District of California  
Barry T. Moskowitz, District Judge, Presiding

Submitted December 7, 2001\*\*\*  
Pasadena, California

Before: PREGERSON, TASHIMA and BERZON, Circuit Judges.

This court's decision in *Taniguchi v. Schultz*, 303 F.3d 950 (9th Cir. 2002)  
controls this case and precludes the habeas relief sought by Mr. Kim.

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\* John Ashcroft is substituted for his predecessor, Janet Reno, as Attorney General of the United States. Fed. R. App. P. 43(c)(2)

\*\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9<sup>th</sup> Circuit Rule 36-3.

\*\*\* The panel unanimously finds this case suitable for decision without oral argument. Fed. R. App P. 34(a)(2).

**REVERSED.**